

# Notice of Allowability

Application No.

10/030,485

Examiner

Chih-Min Kam

Applicant(s)

MIRA ET AL.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/11/05.
2. ☒ The allowed claim(s) is/are 1-4, 11-19, 23 and 24.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other inventor name correction.

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1-4, 11-19, 23 and 24 are pending.

Applicant's amendment filed July 11, 2005 is acknowledged, and applicants' response has been fully considered. Claims 1, 2, 11-13, 15, 16 and 24 have been amended. Therefore, claims 1-4, 11-19, 23 and 24 are examined.

### **Withdrawn Claim Objection**

2. The previous objection to claim 24, is withdrawn in view of applicant's amendment to the claim filed July 11, 2005.

### **Withdrawn Claim Rejections - 35 USC § 112**

3. The previous rejection of claims 1-4, 11-19, 23 and 24 under 35 U.S.C. 112, first paragraph, is withdrawn in view of applicant's amendment to the claim, and applicant's response at pages 6-9 in the amendment filed July 11, 2005.
4. The previous rejection of claims 2, 13-19, 23 and 24 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendment to the claim, and applicant's response at pages 9-10 in the amendment filed July 11, 2005.

### **Withdrawn Claim Rejections - 35 USC § 102**

5. The previous rejection of claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by Montal *et al.* (WO 97/34620), is withdrawn in view of applicant's amendment to the claim, and applicant's response at page 10 in the amendment filed July 11, 2005.
6. The previous rejection of claims 1 and 2 under 35 U.S.C. 102(a) as being anticipated by Fasshauer *et al.* (Biochemistry 37, 10354-10362), is withdrawn in view of applicant's

Art Unit: 1656

amendment to the claim, and applicant's response at page 11 in the amendment filed July 11, 2005.

**Examiner's Amendment**

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Roger Pitt on September 28, 2005.

**Examiner's Amendment to the Specification:**

Please insert the following paragraph after the title at page 1, line 3:

This application is a 371 of PCT/ES00/00058, filed February 18, 2000, which claims the foreign priority of Spain Application 1999 00000844, filed April 23, 1999.

**Examiner's Amendment to the Claims:**

Claims 3, 11-19, 23 and 24 have been amended as follows:

3. (Currently amended)      The peptide according to claim 1, wherein the amino acid at the N-terminus ~~in~~ of the peptide is acetylated.

11. (Currently amended)      A mixture of synthetic peptides comprising:

e) a) at least a peptide whose complete amino acid sequence is selected from the amino acid sequence of SEQ ID NO:2 or the amino acid sequence of SEQ ID NO: 3; and

b) at least a peptide ~~having an~~ whose complete amino acid sequence is a fragment of SEQ ID NO:4 consisting of 3 to 30 contiguous amino acids ~~of SEQ ID NO: 4.~~

Art Unit: 1656

12. (Currently amended) The mixture according to claim 11, comprising:
- a) at least a peptide whose complete amino acid sequence is selected from the amino acid sequence of SEQ ID NO: 2 or the amino acid sequence of SEQ ID NO:3; and
  - b) at least a peptide ~~having an~~ whose complete amino acid sequence is selected from the group consisting of amino acid sequence of SEQ ID NO:5 and the amino acid sequence of SEQ ID NO:6.
13. (Currently amended) A cosmetic composition comprising ~~an amount of~~ a peptide whose complete amino acid sequence is selected from the amino acid sequence of SEQ ID NO:2 or the amino acid sequence of SEQ ID NO:3 in an amount effective for the treatment of facial wrinkles or facial asymmetry and a cosmetically acceptable adjuvant.
14. (Currently amended) The cosmetic composition according to claim 13, which further comprises ~~one or more~~ at least a peptides ~~having an~~ whose complete amino acid sequence is a fragment of SEQ ID NO:4 consisting of 3 to 30 contiguous amino acids of ~~SEQ ID NO:4~~.
15. (Currently amended) A method of reducing or eliminating facial wrinkles comprising applying to a subject a cosmetic composition comprising a cosmetically effective amount of a peptide whose complete amino acid sequence is selected from the amino acid sequence of SEQ ID NO: 2 or the amino acid sequence of SEQ ID NO:3 and a cosmetically acceptable adjuvant to reduce or eliminate the facial wrinkles.
16. (Currently amended) A ~~pharmaceutical~~ composition comprising ~~an amount of~~ a peptide whose complete amino acid sequence is selected from the amino acid sequence of SEQ ID NO:2 or the amino acid sequence of SEQ ID NO:3 ~~in an~~

Art Unit: 1656

~~amount effective for the treatment of a neurological disorder or neurological disease and~~  
a pharmaceutically acceptable excipient.

17. (Currently amended) The ~~pharmaceutical~~ composition according to claim 16,  
which ~~farther~~ further comprises, ~~one or more at least a~~ peptides having an whose  
complete amino acid sequence is a fragment of SEQ ID NO:4 consisting of 3 to 30  
contiguous amino acids ~~of SEQ ID NO:4~~.

18. (Currently amended) The ~~pharmaceutical~~ composition according to claim 16,  
which further comprises, a drug selected from the group consisting of a neuronal  
glutamate receptor blocker, a calcium chelating agent, an antioxidant, a free radical  
scavenger and mixtures thereof.

19. (Currently amended) The ~~pharmaceutical~~ composition according to claim 18,  
which further comprises ~~one or more at least a~~ peptides having an whose complete amino  
acid sequence is a fragment of SEQ ID NO:4 consisting of 3 to 30 contiguous amino  
acids ~~of SEQ ID NO:4~~.

23. (Currently amended) The ~~pharmaceutical~~ composition according to claim 18,  
further comprising one or more neuronal exocytosis inhibitors.

24. (Currently amended) A method of reducing or eliminating facial asymmetry  
comprising applying to a subject a cosmetic composition comprising a cosmetically  
effective amount of a peptide whose complete amino acid sequence is selected from  
the amino acid sequence of SEQ ID NO: 2 or the amino acid sequence of SEQ ID NO:3  
and a cosmetically acceptable adjuvant to reduce or eliminate facial asymmetry.

Art Unit: 1656

The following is an **Examiner's Statement of Reasons for Allowance**: The following reference appears to be the closest art to the claimed invention. Montal *et al.* (WO 97/34620) teach the peptides obtained from the C-terminal domains of SNAP-25 inhibit the secretion of neurotransmitters from synaptic vesicles. However, the reference does not teach or suggest that the peptide fragment (i.e., SEQ ID NO:2 or 3) from N-terminal domain of SNAP-25, or a peptide mixture of the N-terminal fragment and the C-terminal fragment (fragment of SEQ ID NO:4) of SNAP-25 that inhibits neuronal exocytosis. Furthermore, these peptide fragments which mimic the activity of botulinum toxins in the control of neurotransmitter release, can be used to relax muscular tension, and consequently, to treat wrinkles like botulinum toxin. Therefore, the claims are allowable over the art of record.

Regarding the request to correct the name of first inventor to read as "Ma Clara Blanes Mira", applicant can file a supplemental paper such as application data sheet (see 37 CFR 1.76 and MPEP 601.05, 602.01), and a new oath is not necessary.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr can be reached at 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/030,485  
Art Unit: 1656

Page 7

Chih-Min Kam, Ph. D. *CMK*  
Patent Examiner

CMK

September 28, 2005

  
**KATHLEEN M. KERR, PH.D.**  
**SUPERVISORY PATENT EXAMINER**